

November 7, 2022

The Red Lodge City Council met in regular session on November 7, 2022 at 6:00 p.m. The meeting was called to order by Mayor Cogswell, followed by the Pledge of Allegiance to the Flag.

**ROLL CALL OF OFFICERS:** Present: Mayor Cogswell, Aldermen Battles, Critelli, Durbin, Heaton, Ronning, and Whistler.

**DEPARTMENT HEAD ATTENDANCE:** City Clerk – Loni Hanson, Police Chief- Greg Srock, City Attorney- Dennison Butler, Public Works Director- Jim Bushnell, and Planning Director- Courtney Long.

**MINUTES OF OCTOBER 11, 2022** - Motion by Heaton, second by Whistler to approve the minutes of October 11, 2022 as presented. On roll call vote all Aldermen present voted "Aye." Motion carried.

**WARRANTS PAYABLE-** Motion by Battles, second by Heaton to approve warrants against the City totaling \$237,552.00 to be paid and warrants drawn on their respective funds. On roll call vote all Aldermen present voted "Aye." Motion carried.

**MAYOR'S COMMENTS- Urban Renewal District Board Member Appointment-** Mayor Cogswell asked for Council approval to appoint Victoria Porter to the Urban Renewal District Board.

Motion by Whistler, second by Heaton to approve the Mayor's appointment of Victoria Porter to the Urban Renewal District Board. On roll call vote, all Aldermen present voted "Aye." Motion carried.

**Small Business Saturday-** Mayor Cogswell proclaimed the Saturday after Thanksgiving as "Small Business Saturday."

**Short-Term Rental Committee Survey-** Mayor Cogswell said the Short-Term Rental Committee has put a survey together. She said the survey is available on our Facebook page, on the City's website, at the Library and Cityhall. The deadline to fill out the survey is November 12<sup>th</sup>.

**Police Department Presentation of Awards-** Greg Srock, Chief of Police, presented awards to City officers for various achievements and training.

**PUBLIC COMMENTS-** None.

**OLD BUSINESS- Montana Main Street Grant-** Kat Healy, Red Lodge Area Community Foundation, said there are a couple grants available to apply for. The Community Foundation would like to apply for one of the grants to use to fix up the front grounds at the Roosevelt Center. Kat said the Foundation just needs to make sure there are no other applications from the community, because only one application can be submitted.

**Ordinance No. 959, Establishing a Solid Waste Management System including Collection and Disposal of Solid Waste, Adoption of a Recycling Facility for Collection of Recyclable Materials, and Addition of Title 14, "Solid Waste", Public Hearing/1<sup>st</sup> Reading-** Mayor Cogswell opened the public hearing.

Jim Bushnell, Public Works Director, said he would like the Council to table this ordinance until the Public Works Committee can do their due diligence and come back with their recommendations.

Gena Burghoff, Red Lodge, said she would like to see the ordinance go through.

Mayor Cogswell closed the public hearing.

Motion by Whistler, second by Battles to approve Ordinance No. 959, establishing a Solid Waste Management System including collection and disposal of solid waste, adoption of a recycling facility for collection of recyclable materials, and addition of Title 14, "Solid Waste" on first reading. On roll call vote Aldermen Battles, Heaton and Whistler voted "Aye." Aldermen Critelli, Durbin and Ronning voted "No." Mayor broke tie vote with "Aye." Motion passed.

There was more discussion among staff and Council regarding the ordinance and the recycling center.

**Ordinance No. 960, Use of City Owned Property-** Heaton went over the ordinance and changes that were made.

There was more discussion among staff and Council regarding the ordinance.

**Resolution No. 3607, 1<sup>st</sup> Amendment, Short-Term Rental Committee-** Whistler said the Planning Board requested more time to get their amendments to the Council and asked for the date certain to be extended.

Motion by Whistler, second by Heaton to approve Resolution No. 3607, 1<sup>st</sup> amendment. On roll call vote all Aldermen present voted "Aye." Motion carried.

#### **RESOLUTION No 3607, 1<sup>st</sup> Amendment**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA DECLARING ITS INTENTION TO CREATE THE "SHORT TERM RENTAL ADVISORY COMMITTEE", DISALLOWING OPERATION OF NON-COMPLIANT SHORT TERM RENTALS AND DIRECTING THE PLANNING BOARD & ZONING COMMISSION TO CONDUCT A PUBLIC HEARING TO AMEND SHORT TERM RENTAL ZONING REGULATIONS BY A DATE CERTAIN**

**WHEREAS**, it is the duty and responsibility of the City to ensure public health, safety and welfare of all its residents in all its districts by enforcement of its zoning regulations; and

**WHEREAS**, in 2018, the Red Lodge City Council passed Ordinance No. 948, to approve the amended City Zoning Code Title 12 Section 4.4.22 (Specific Uses) to allow for and include regulation of Short Term Rentals (STRs) as registered businesses; and

**WHEREAS**, as the number of STRs has increased since 2018, some HOAs have begun to prohibit or place restrictions on STRs; residents living within non-HOA residential districts look to the City to create similar protections and preservation of the residential character of their neighborhoods; and

**WHEREAS**, in May of 2022, Red Lodge City Council approved Ordinance No. 957 as recommended by the City's Planning Board & Zoning Commission (Planning Board) with minor adjustments only to Zoning Code Title 12 Section 4.4.22 Use Specific Standards for Short Term Rentals without any conditional use and minimal zoning district limitations; and

**WHEREAS**, the City has recently purchased and implemented software to enable improved processes that ensure compliance of STR businesses with the laws and regulations of the City of Red Lodge and the State of Montana; and

**WHEREAS**, using the STR compliance software, the City has determined there are an inordinate number of unregistered and/or non-compliant STR businesses within the City that, if left unchecked, increase the risk of liability to the City; may increase nuisance and public health and safety incidents; and

**WHEREAS**, the City Council desires the City to immediately address STR zoning regulations and application procedures as City Staff continue to act on the number of non-compliant STR businesses identified. Backlogs of non-compliant registrations, non-registered STRs and current findings lend incentive to the Planning Board to reconsider recommendations to the City Council for amendment. The immediate nature of this resolution is necessary in order to preserve the status quo during the period of this undertaking; and

**WHEREAS**, the Mayor may create any advisory committee viewed as necessary or convenient to promote the public health, safety and welfare and to appoint citizens to serve on these committees; and

**NOW THEREFORE**, the City Council of the City of Red Lodge, Montana, does ordain as follows:

**Section 1.** The City hereby notifies non-registered and/or non-compliant STR Businesses that they may not operate until such time as all inspections and certifications are reported to the City according to the City's Business Registration Procedures for Short Term Rentals.

**Section 2.** The Short Term Rental Advisory Committee, hereinafter referred to as the "Committee," shall be established and maintained to advise and give insight to the Planning Board on the efforts to evaluate STR regulations, and assist and advise the City on any recommendations to improve upon existing STR regulations.

**Section 3.** Notice of Committee positions will be advertised and posted immediately following approval of this resolution and letters of interest will be accepted until September 9, 2022.

**Section 4. Hearing** – The Planning Board is hereby authorized and directed to schedule a public hearing on the recommendations of the STR Committee made to the Planning Board within 60 days of receiving the Committees' draft ordinance, and to provide notice of said hearing in accordance with applicable standards and procedures.

**Section 5. Declaration of Immediate Effective Date; Sunset** – The findings and conclusions above are adopted by the City Council in support of the designation of this resolution as a measure necessary for the protection of the public health, public safety, public property and public welfare. This resolution shall take effect immediately upon adoption by the Council, unless terminated by the City Council.

**Section 6. Immediate Action and Approach**

1. Formation of a Short Term Rental Advisory Committee as appointed by Mayor shall comprise a minimum of 5 members and no more than 7 with: (Sept 13)
  - 1 City Council Member
  - 1 Planning Board and Zoning Commission Members
  - 1 Workforce or Short Term Rental Housing Committee MembersAnd preference given to City residents for additional memberships.  
City Planning Director (non-voting member)
2. The Advisory Committee will research, discuss and draft recommendations for STR zoning regulation amendments to the Land Use and Planning Standing Committee, within the first 90 days of its initial meeting (presented as a draft ordinance).
3. The Land Use and Planning Standing Committee will present the draft ordinance to the Planning Board for action.
4. Within 60 days of receiving recommendations from the Standing Committee, the Planning Board will conduct a public hearing to share and review recommended amendments for Short Term Rental regulations and send a finalized ordinance to the City Council.
5. City Council will conduct 2 public hearings and 2 readings of the ordinance to determine approval, approval with amendment or rejection.
6. The role of the Advisory Committee completes by December 13, 2022.

7. The task of the Planning Board to finalize and forward an ordinance for amendment of Short Term Rental Zoning Regulations to City Council ends on a date certain of February 22, 2023.

PASSED and APPROVED by the Red Lodge City Council the 7<sup>th</sup> of November, 2022.

For the City of Red Lodge, Montana:

\_\_\_\_\_  
Kristen Cogswell, Mayor

Attest: \_\_\_\_\_

Loni Hanson, City Clerk

**NEW BUSINESS- Cancel December 27<sup>th</sup> Council Meeting-** Mayor Cogswell said the second Council meeting in December falls between the holidays and historically this meeting has always been canceled.

Motion by Heaton, second by Ronning to cancel the December 27<sup>th</sup> City Council meeting. On roll call vote all Aldermen present voted "Aye." Motion carried.

**STANDING COMMITTEES- Administration and Finance-** Alderman Ronning said they talked about Ordinance 959 and 960. She said they also discussed the 2024 election and looking at the City's form of government and starting the discussion with the public.

**Public Works-** Alderman Durbin said they also discussed Ordinance 959 and the recycling center.

**Public Health and Safety-** Alderman Durbin said they reviewed a draft fireworks ordinance. She said that will be to Council first part of next year.

**Land Use and Planning-** Alderman Whistler said they discussed Ordinance 960. She said they also discussed lot line aggregations and a code enforcement officer.

**CORRESPONDENCE-** Any correspondence was included in Council packets.

Meeting adjourned at 7:20 p.m.

ATTEST:

\_\_\_\_\_

Mayor

\_\_\_\_\_

City Clerk

November 22, 2022

The Red Lodge City Council met in regular session on November 22, 2022 at 6:00 p.m. The meeting was called to order by Mayor Cogswell, followed by the Pledge of Allegiance to the Flag.

**ROLL CALL OF OFFICERS:** Present: Mayor Cogswell, Aldermen Battles, Critelli, Durbin, Heaton, and Whistler. Absent: Alderman Ronning.

**DEPARTMENT HEAD ATTENDANCE:** City Clerk – Loni Hanson, City Attorney- Dennison Butler, and Public Works Director- Jim Bushnell,

**MINUTES OF OCTOBER 25, 2022** - Motion by Heaton, second by Whistler to approve the minutes of October 25, 2022 as presented. On roll call vote all Aldermen present voted "Aye." Motion carried.

**MAYOR'S COMMENTS- Small Business Saturday-** Mayor Cogswell said "Small Business Saturday" is this coming Saturday and hoped everyone would shop local.

**Flood Update-** Mayor Cogswell gave an update on the status of the cleanup in the creek and Highway 212. She said the Montana State Department of Emergency Services are in the process of a legal review to move forward on the cleanup.

**"Snow New"-** Mayor Cogswell asked that everyone please shovel their sidewalks.

Jordan Webb, Police Sergeant, reminded everyone that businesses are responsible for clearing their sidewalks after a storm. He also said to remember when parking on Broadway to park on the other side of the warning signs.

**PUBLIC COMMENTS-** Bill Bullock, Carbon County Commissioner, requested a meeting between the County, City and Airport Board to look at the interlocal agreement for the airport.

Dan Drobny, Red Lodge, asked the Council to take into consideration public comments and survey results on the VRBO situation. He also said the streets in this town are embarrassing.

**OLD BUSINESS- Ordinance No. 959, Establishing a Solid Waste Management System including Collection and Disposal of Solid Waste, Adoption of a Recycling Facility for Collection of Recyclable Materials, and Addition of Title 14, "Solid Waste", Public Hearing/2<sup>nd</sup> Reading-** Mayor Cogswell opened the public hearing.

Susan Yerby, Red Lodge, asked that this be a voluntary thing or at least go to the voters.

Janie Sours, Red Lodge, was opposed to having everyone pay for recycling and should be left up to the individual if you want to pay for that service.

Lee Stevens, Red Lodge, said this should be put in front of the voters on a ballot.

Mayor Cogswell closed the public hearing.



Motion by Whistler, second by Heaton to approve Ordinance No. 959, establishing a Solid Waste Management System including collection and disposal of solid waste, adoption of a recycling facility for collection of recyclable materials, and addition of Title 14, "Solid Waste" on second reading. On roll call vote Aldermen Battles, Heaton and Whistler voted "Aye." Aldermen Critelli and Durbin voted "No." Motion failed.

There was more discussion among staff and Council regarding the ordinance and the recycling center.

**Ordinance No. 960, Use of City Owned Property-** Mayor Cogswell opened the public hearing.

No one spoke.

Mayor Cogswell closed the public hearing.

Motion by Heaton, second by Durbin to approve Ordinance no. 960, an ordinance of the City of Red Lodge, Montana, to repeal and replace Ordinance 928 and 928 a-1<sup>st</sup> Amendment, and the municipal code pertaining to event permits and regulations for the use of city-owned property as governed in Title 8, Chapter 8 use of city-owned property on first reading. On roll call vote all Aldermen present voted "Aye." Motion carried.

There was more discussion among staff and Council regarding the ordinance.

**NEW BUSINESS- Airport Lease-** Mayor Cogswell said she has been in conversations with members of the Airport Board and their leases. She said the main issue that needs to be looked at is the need for the sewer line to be extended to the airport hangers to eliminate the use of the septic systems. She said the conversations need to be had on who would pay for it and who's responsibility it is.

Bo Ewald, Red Lodge, went through the many user groups that utilize the airport.

Steve Smith, Red Lodge, gave an overview of the Airport Board.

Jim Bushnell, Public Works Director, said there needs to be a survey to determine the dedicated land for the airport and the boundaries.

There was more discussion between staff, Mayor and Airport Board members.

**STANDING COMMITTEES- Administration and Finance-** Alderman Critelli said he handed out to the committee the copy of the timeline for changing the form of government that he received from Dan Clark. He said they discussed the texting platform. Critelli said they also discussed Ordinance 960.

**Public Works-** Alderman Durbin said they have been working on the due diligence for the recycling center.

**Public Health and Safety-** Alderman Durbin said she went to the Fire Oversight Committee meeting and filled in the Public Health and Safety Committee with what they discussed. She said Tim Ryan, Assistant Fire Chief, talked about short-term rentals and the inspections they have to do and increasing the fees for those inspections.

**Land Use and Planning-** Alderman Whistler said they discussed Ordinance 960. She said they also discussed lot line aggregations. She said they want to start working on updating Ordinance 893, which deals with City Owned property not related to events.

**CORRESPONDENCE-** Any correspondence was included in Council packets.

Meeting adjourned at 7:35 p.m.

ATTEST:

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Mayor

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City Clerk

## Resort Tax 3% Collections Report

Updated

Nov-22

| Q1                  | Jan-22              | Feb-22              | Mar-22              | Reported Qtrly Only  | TOTAL                |
|---------------------|---------------------|---------------------|---------------------|----------------------|----------------------|
| Bar/Rest            | \$ 8,992.99         | \$ 7,641.57         | \$ 6,785.73         | \$ 62,068.21         | \$ 85,488.50         |
| Liquor/Conv/Grocery | \$ 2,843.67         | \$ 2,939.89         | \$ 3,361.40         | \$ 37,005.26         | \$ 46,150.22         |
| Short Term Rental   | \$ 4,929.23         | \$ 5,570.21         | \$ 11,183.35        | \$ 10,351.23         | \$ 32,034.02         |
| Hotel/Motel         | \$ 1,186.79         | \$ 1,699.31         | \$ 2,653.34         | \$ 23,430.98         | \$ 28,970.41         |
| Retail              | \$ 2,186.84         | \$ 2,430.20         | \$ 5,016.59         | \$ 16,144.31         | \$ 25,777.94         |
| Service/Equipment   | \$ 25.41            | \$ 1.18             | \$ 30.34            | \$ 869.30            | \$ 926.22            |
| <b>TOTAL</b>        | <b>\$ 20,164.92</b> | <b>\$ 20,282.35</b> | <b>\$ 29,030.74</b> | <b>\$ 149,869.28</b> | <b>\$ 219,347.29</b> |
| Q2                  | Apr-22              | May-22              | Jun-22              | Reported Qtrly Only  | TOTAL                |
| Bar/Rest            | \$ 21,522.45        | \$ 28,112.52        | \$ 32,040.29        | \$ 27,385.64         | \$ 109,060.91        |
| Liquor/Conv/Grocery | \$ 6,739.80         | \$ 8,308.40         | \$ 8,748.23         | \$ 28,943.06         | \$ 52,739.48         |
| Short Term Rental   | \$ 1,903.02         | \$ 3,400.60         | \$ 4,750.20         | \$ 10,645.79         | \$ 20,699.60         |
| Hotel/Motel         | \$ 4,594.24         | \$ 6,943.23         | \$ 12,443.05        | \$ 1,786.46          | \$ 25,766.97         |
| Retail              | \$ 2,675.48         | \$ 4,223.57         | \$ 6,835.10         | \$ 22,963.57         | \$ 36,697.71         |
| Service/Equipment   | \$ -                | \$ 27.36            | \$ 138.96           | \$ 550.34            | \$ 716.66            |
| <b>TOTAL</b>        | <b>\$ 37,434.98</b> | <b>\$ 51,015.68</b> | <b>\$ 64,955.83</b> | <b>\$ 92,274.85</b>  | <b>\$ 245,681.33</b> |
| Q3                  | Jul-22              | Aug-22              | Sep-22              | Reported Qtrly Only  | TOTAL                |
| Bar/Rest            | \$ 49,763.99        | \$ 46,788.40        | \$ 36,639.08        | \$ 37,087.34         | \$ 170,278.81        |
| Liquor/Conv/Grocery | \$ 13,547.32        | \$ 11,580.68        | \$ 8,796.24         | \$ 37,274.34         | \$ 71,198.57         |
| Short Term Rental   | \$ 8,867.80         | \$ 7,519.22         | \$ 5,022.61         | \$ 13,265.09         | \$ 34,674.71         |
| Hotel/Motel         | \$ 12,706.00        | \$ 10,890.22        | \$ 10,569.82        | \$ 34,896.43         | \$ 69,062.46         |
| Retail              | \$ 12,744.95        | \$ 9,753.97         | \$ 6,938.02         | \$ 35,703.67         | \$ 65,140.60         |
| Service/Equipment   | \$ 180.35           | \$ 788.09           | \$ 209.90           | \$ 2,434.85          | \$ 3,613.19          |
| <b>TOTAL</b>        | <b>\$ 97,810.40</b> | <b>\$ 87,320.57</b> | <b>\$ 68,175.66</b> | <b>\$ 160,661.72</b> | <b>\$ 413,968.34</b> |
| Q4                  | Oct-22              | Nov-22              | Dec-22              | Reported Qtrly Only  | TOTAL                |
| Bar/Rest            | \$ 3,298.47         | \$ -                | \$ -                | \$ -                 | \$ 3,298.47          |
| Liquor/Conv/Grocery | \$ -                | \$ -                | \$ -                | \$ -                 | \$ -                 |
| Short Term Rental   | \$ -                | \$ -                | \$ -                | \$ -                 | \$ -                 |
| Hotel/Motel         | \$ -                | \$ -                | \$ -                | \$ -                 | \$ -                 |
| Retail              | \$ 488.57           | \$ -                | \$ -                | \$ -                 | \$ 488.57            |
| Service/Equipment   | \$ -                | \$ -                | \$ -                | \$ -                 | \$ -                 |
| <b>TOTAL</b>        | <b>\$ 3,787.04</b>  | <b>\$ -</b>         | <b>\$ -</b>         | <b>\$ -</b>          | <b>\$ 3,787.04</b>   |

| 2022                | Q1                   | Q2                   | Q3                   | Q4                 | TOTAL                |
|---------------------|----------------------|----------------------|----------------------|--------------------|----------------------|
| Bar/Rest            | \$ 85,488.50         | \$ 109,060.91        | \$ 170,278.81        | \$ 3,298.47        | \$ 368,126.68        |
| Liquor/Conv/Grocery | \$ 46,150.22         | \$ 52,739.48         | \$ 71,198.57         | \$ -               | \$ 170,088.27        |
| Short Term Rental   | \$ 32,034.02         | \$ 20,699.60         | \$ 34,674.71         | \$ -               | \$ 87,408.32         |
| Hotel/Motel         | \$ 28,970.41         | \$ 25,766.97         | \$ 69,062.46         | \$ -               | \$ 123,799.84        |
| Retail              | \$ 25,777.94         | \$ 36,697.71         | \$ 65,140.60         | \$ 488.57          | \$ 128,104.82        |
| Service/Equipment   | \$ 926.22            | \$ 716.66            | \$ 3,613.19          | \$ -               | \$ 5,256.08          |
| <b>TOTAL</b>        | <b>\$ 219,347.29</b> | <b>\$ 245,681.33</b> | <b>\$ 413,968.34</b> | <b>\$ 3,787.04</b> | <b>\$ 882,784.00</b> |



## Resort Tax 1% Collections Report

Updated

Nov-22

| Q1                  | Jan-22              | Feb-22              | Mar-22              | Reported Qtrly Only | TOTAL                |
|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------|
| Bar/Rest            | \$ 2,997.66         | \$ 2,547.19         | \$ 2,261.91         | \$ 20,689.40        | \$ 28,496.17         |
| Liquor/Conv/Grocery | \$ 947.89           | \$ 979.96           | \$ 1,120.47         | \$ 12,335.09        | \$ 15,383.41         |
| Short Term Rental   | \$ 1,643.08         | \$ 1,856.74         | \$ 3,727.78         | \$ 3,450.41         | \$ 10,678.01         |
| Hotel/Motel         | \$ 395.60           | \$ 566.44           | \$ 884.45           | \$ 7,810.33         | \$ 9,656.80          |
| Retail              | \$ 728.95           | \$ 810.07           | \$ 1,672.20         | \$ 5,381.44         | \$ 8,592.65          |
| Service/Equipment   | \$ 8.47             | \$ 0.39             | \$ 10.11            | \$ 289.77           | \$ 308.74            |
| <b>TOTAL</b>        | <b>\$ 6,721.64</b>  | <b>\$ 6,760.78</b>  | <b>\$ 9,676.91</b>  | <b>\$ 49,956.43</b> | <b>\$ 73,115.76</b>  |
| Q2                  | Apr-22              | May-22              | Jun-22              | Reported Qtrly Only | TOTAL                |
| Bar/Rest            | \$ 7,174.15         | \$ 9,370.84         | \$ 10,680.10        | \$ 9,128.55         | \$ 36,353.64         |
| Liquor/Conv/Grocery | \$ 2,246.60         | \$ 2,769.47         | \$ 2,916.08         | \$ 9,647.69         | \$ 17,579.83         |
| Short Term Rental   | \$ 634.34           | \$ 1,133.53         | \$ 1,583.40         | \$ 3,548.60         | \$ 6,899.87          |
| Hotel/Motel         | \$ 1,531.41         | \$ 2,314.41         | \$ 4,147.68         | \$ 595.49           | \$ 8,588.99          |
| Retail              | \$ 891.83           | \$ 1,407.86         | \$ 2,278.37         | \$ 7,654.52         | \$ 12,232.57         |
| Service/Equipment   | \$ -                | \$ 9.12             | \$ 46.32            | \$ 183.45           | \$ 238.89            |
| <b>TOTAL</b>        | <b>\$ 12,478.33</b> | <b>\$ 17,005.23</b> | <b>\$ 21,651.94</b> | <b>\$ 30,758.28</b> | <b>\$ 81,893.78</b>  |
| Q3                  | Jul-22              | Aug-22              | Sep-22              | Reported Qtrly Only | TOTAL                |
| Bar/Rest            | \$ 16,588.00        | \$ 15,596.13        | \$ 12,213.03        | \$ 12,362.45        | \$ 56,759.60         |
| Liquor/Conv/Grocery | \$ 4,515.77         | \$ 3,860.23         | \$ 2,932.08         | \$ 12,424.78        | \$ 23,732.86         |
| Short Term Rental   | \$ 2,955.93         | \$ 2,506.41         | \$ 1,674.20         | \$ 4,421.70         | \$ 11,558.24         |
| Hotel/Motel         | \$ 4,235.33         | \$ 3,630.07         | \$ 3,523.27         | \$ 11,632.14        | \$ 23,020.82         |
| Retail              | \$ 4,248.32         | \$ 3,251.32         | \$ 2,312.67         | \$ 11,901.22        | \$ 21,713.53         |
| Service/Equipment   | \$ 60.12            | \$ 262.70           | \$ 69.97            | \$ 811.62           | \$ 1,204.40          |
| <b>TOTAL</b>        | <b>\$ 32,603.47</b> | <b>\$ 29,106.86</b> | <b>\$ 22,725.22</b> | <b>\$ 53,553.91</b> | <b>\$ 137,989.45</b> |
| Q4                  | Oct-22              | Nov-22              | Dec-22              | Reported Qtrly Only | TOTAL                |
| Bar/Rest            | \$ 1,099.49         | \$ -                | \$ -                | \$ -                | \$ 1,099.49          |
| Liquor/Conv/Grocery | \$ -                | \$ -                | \$ -                | \$ -                | \$ -                 |
| Short Term Rental   | \$ -                | \$ -                | \$ -                | \$ -                | \$ -                 |
| Hotel/Motel         | \$ -                | \$ -                | \$ -                | \$ -                | \$ -                 |
| Retail              | \$ 162.86           | \$ -                | \$ -                | \$ -                | \$ 162.86            |
| Service/Equipment   | \$ -                | \$ -                | \$ -                | \$ -                | \$ -                 |
| <b>TOTAL</b>        | <b>\$ 1,262.35</b>  | <b>\$ -</b>         | <b>\$ -</b>         | <b>\$ -</b>         | <b>\$ 1,262.35</b>   |

| 2022                | Q1                  | Q2                  | Q3                   | Q4                 | TOTAL                |
|---------------------|---------------------|---------------------|----------------------|--------------------|----------------------|
| Bar/Rest            | \$ 28,496.17        | \$ 36,353.64        | \$ 56,759.60         | \$ 1,099.49        | \$ 122,708.89        |
| Liquor/Conv/Grocery | \$ 15,383.41        | \$ 17,579.83        | \$ 23,732.86         | \$ -               | \$ 56,696.09         |
| Short Term Rental   | \$ 10,678.01        | \$ 6,899.87         | \$ 11,558.24         | \$ -               | \$ 29,136.11         |
| Hotel/Motel         | \$ 9,656.80         | \$ 8,588.99         | \$ 23,020.82         | \$ -               | \$ 41,266.61         |
| Retail              | \$ 8,592.65         | \$ 12,232.57        | \$ 21,713.53         | \$ 162.86          | \$ 42,701.61         |
| Service/Equipment   | \$ 308.74           | \$ 238.89           | \$ 1,204.40          | \$ -               | \$ 1,752.03          |
| <b>TOTAL</b>        | <b>\$ 73,115.76</b> | <b>\$ 81,893.78</b> | <b>\$ 137,989.45</b> | <b>\$ 1,262.35</b> | <b>\$ 294,261.33</b> |

**Clerks Report**

| Nov-22                                      | 1000          | 5210          | 5310          | 2100         | 2394        | 2820        | 2220      | 2520         |               |
|---|---------------|---------------|---------------|--------------|-------------|-------------|-----------|--------------|---------------|
| Function                                    | General       | Water         | Sewer         | Resort Tax   | Building    | Gas Tax     | LIBRARY   | STORM        | TOTAL         |
| <b>GENERAL</b>                              |               |               |               |              |             |             |           |              |               |
| TAXES FROM COUNTY                           | \$ 70,945.99  |               |               |              |             |             |           |              | \$ 70,945.99  |
| SALE OF SUPPLIES                            | \$ 379.31     |               |               |              |             |             |           |              | \$ 379.31     |
| ANIMAL CONTROL (DOG TAGS)                   | \$ 30.00      |               |               |              |             |             |           |              | \$ 30.00      |
| FINES AND FORFEITURES                       | \$ 2,011.75   |               |               |              |             |             |           |              | \$ 2,011.75   |
| DONATIONS AND CONTRIBUTIONS                 | \$ 37.19      |               |               |              |             |             |           |              | \$ 37.19      |
| OIL AND GAS TAX                             | \$ 1,936.71   |               |               |              |             |             |           |              | \$ 1,936.71   |
| POLICE EQUIPMENT-CRIME CONTROL              | \$ 50.00      |               |               |              |             |             |           |              | \$ 50.00      |
| BUSINESS LICENSE                            | \$ 725.00     |               |               |              |             |             |           |              | \$ 725.00     |
| LIBRARY COLLECTIONS                         | \$ 42.30      |               |               |              |             |             |           |              | \$ 42.30      |
| LIBRARY FROM THE COUNTY                     |               |               |               |              |             |             |           |              | \$ -          |
| LAW ENFORCEMENT GRANTS                      | \$ 189.75     |               |               |              |             |             |           |              | \$ 189.75     |
| LAW ENFORCEMENT (CATERING PERMITS)          | \$ 35.00      |               |               |              |             |             |           |              | \$ 35.00      |
| ARBOR DAY GRANT                             | \$ 1,350.00   |               |               |              |             |             |           |              | \$ 1,350.00   |
| PLANNING                                    | \$ -          |               |               |              |             |             |           |              | \$ -          |
| ENTITLEMENT SHARE                           | \$ -          |               |               |              |             |             |           |              | \$ -          |
| LAW ENFORCEMENT ENTITLEMENT SHARE           | \$ -          |               |               |              |             |             |           |              | \$ -          |
| COMP INS ENTITLEMENT SHARE                  | \$ -          |               |               |              |             |             |           |              | \$ -          |
| PERS ENTITLEMENT SHARE                      | \$ -          |               |               |              |             |             |           |              | \$ -          |
| VICTIM SURCHARGE                            | \$ 10.00      |               |               |              |             |             |           |              | \$ 10.00      |
| SURCHARGES                                  | \$ 60.00      |               |               |              |             |             |           |              | \$ 60.00      |
| FEDERAL ARPA FUNDS                          | \$ 176,142.02 |               |               |              |             |             |           |              | \$ 176,142.02 |
| INTEREST                                    | \$ 2,200.51   |               |               |              |             |             |           |              | \$ 2,200.51   |
| MISC REVENUE                                | \$ 410.00     |               |               |              |             |             |           |              | \$ 410.00     |
| CDBG INTEREST                               | \$ 77.30      |               |               |              |             |             |           |              | \$ 77.30      |
| <b>WATER</b>                                |               |               |               |              |             |             |           |              |               |
| DEPOSITS                                    |               | \$ 600.00     |               |              |             |             |           |              | \$ 600.00     |
| WATER COLLECTIONS                           |               | \$ 108,936.29 |               |              |             |             |           |              | \$ 108,936.29 |
| CURBSTOP FEES                               |               | \$ 3,266.15   |               |              |             |             |           |              | \$ 3,266.15   |
| PENALTIES                                   |               | \$ 3,216.07   |               |              |             |             |           |              | \$ 3,216.07   |
| MISC (ON/OFF FEES, LABOR, & METER SUPPLIES) |               | \$ 6,528.33   |               |              |             |             |           |              | \$ 6,528.33   |
| WATER INTEREST                              |               | \$ 1,404.58   |               |              |             |             |           |              | \$ 1,404.58   |
| WATER IMPACT FEES                           |               | \$ 14,800.00  |               |              |             |             |           |              | \$ 14,800.00  |
| WATER ADMIN FEES                            |               | \$ 740.00     |               |              |             |             |           |              | \$ 740.00     |
| UTILITY FROM TAXES                          |               | \$ -          |               |              |             |             |           |              | \$ -          |
| RENTS AND LEASES                            |               | \$ -          |               |              |             |             |           |              | \$ -          |
| MISC WATER REVENUE                          |               | \$ -          |               |              |             |             |           |              | \$ -          |
| <b>SEWER</b>                                |               |               |               |              |             |             |           |              |               |
| SEWER COLLECTIONS                           |               |               | \$ 109,428.63 |              |             |             |           |              | \$ 109,428.63 |
| SEWER IMPACT FEES                           |               |               | \$ 11,200.00  |              |             |             |           |              | \$ 11,200.00  |
| SEWER ADMIN FEES                            |               |               | \$ 560.00     |              |             |             |           |              | \$ 560.00     |
| SEWER INTEREST                              |               |               | \$ 2,535.10   |              |             |             |           |              | \$ 2,535.10   |
| RENTS AND LEASES                            |               |               | \$ -          |              |             |             |           |              | \$ -          |
| UTILITY FROM TAXES                          |               |               | \$ 10,886.00  |              |             |             |           |              | \$ 10,886.00  |
| <b>RESORT TAX</b>                           |               |               |               |              |             |             |           |              |               |
| 3% RESORT TAX COLLECTIONS                   |               |               |               | \$ 57,957.67 |             |             |           |              | \$ 57,957.67  |
| RESORT TAX BONDS                            |               |               |               | \$ 2,000.00  |             |             |           |              | \$ 2,000.00   |
| INTEREST                                    |               |               |               | \$ 727.91    |             |             |           |              | \$ 727.91     |
| DONATIONS AND CONTRIBUTIONS                 |               |               |               | \$ -         |             |             |           |              | \$ -          |
| <b>BUILDING</b>                             |               |               |               |              |             |             |           |              |               |
| BUILDING PERMITS                            |               |               |               |              | \$ 3,764.00 |             |           |              | \$ 3,764.00   |
| <b>GAS TAX</b>                              |               |               |               |              |             |             |           |              |               |
| GAS TAX APPORTIONMENT                       |               |               |               |              |             | \$ 4,831.83 |           |              | \$ 4,831.83   |
| SPECIAL GAS TAX ALLOCATION                  |               |               |               |              |             | \$ -        |           |              | \$ -          |
| GAS TAX DUE FROM OTHER GOVERNMENTS          |               |               |               |              |             | \$ -        |           |              | \$ -          |
| <b>LIBRARY</b>                              |               |               |               |              |             |             |           |              |               |
| CONTRIBUTIONS AND DONATIONS                 |               |               |               |              |             |             | \$ 374.90 |              | \$ 374.90     |
| INTEREST                                    |               |               |               |              |             |             | \$ 63.08  |              | \$ 63.08      |
| <b>STORM WATER</b>                          |               |               |               |              |             |             |           |              |               |
| STORM UTILITY FROM COUNTY TAXES             |               |               |               |              |             |             |           | \$ 7,407.02  | \$ 7,407.02   |
| 1% RESORT TAX COLLECTIONS                   |               |               |               |              |             |             |           | \$ 19,319.23 | \$ 19,319.23  |
| <b>TOTAL</b>                                | \$ 256,632.83 | \$ 139,491.42 | \$ 134,609.73 | \$ 60,685.58 | \$ 3,764.00 | \$ 4,831.83 | \$ 437.98 | \$ 26,726.25 | \$ 627,179.62 |

## **ORDINANCE No. 960**

### **AN ORDINANCE OF THE CITY OF RED LODGE, MONTANA, TO REPEAL AND REPLACE ORDINANCE 928 AND 928 A-1<sup>ST</sup> AMENDMENT, AND THE MUNICIPAL CODE PERTAINING TO EVENT PERMITS AND REGULATIONS FOR THE USE OF CITY-OWNED PROPERTY AS GOVERNED IN TITLE 8, CHAPTER 8 USE OF CITY-OWNED PROPERTY**

**WHEREAS**, the City-owned properties are held by the City for the benefit of the public; and

**WHEREAS**, on occasion, parties other than the City of Red Lodge may wish to use City-owned or City-managed properties for specific uses;

**WHEREAS**, State HWY 212 runs through the center of the City and events that close the Highway or restrict Right of Ways impact the City, its local and through traffic, commerce, and potentially public safety; and

**WHEREAS**, negative effects of such uses may be avoided or otherwise adequately mitigated; and

**WHEREAS**, it is in the public and private interest of the City of Red Lodge to regulate the use of City-owned and City-managed Property through the adoption of this ordinance for the purpose of providing clear and consistent rules and guidelines that ensure fair and uniform treatment of applicants while protecting the health, safety and welfare of its residents and visitors alike.

#### **NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF RED LODGE:**

Title 8 Public Ways and Public Property, Chapter 8 Use of City-Owned Property, of the Red Lodge Municipal Code is hereby amended as set forth by this Ordinance as below:

#### **Section 1. Purpose**

The City recognizes events may provide cultural enrichment, promote economic vitality, enhance community identity, and create funding opportunities for service organizations. The purpose of this Ordinance is to establish a coordinated process for managing events utilizing or held on City-owned and managed property to protect the health and safety of event patrons, residents, workers, and visitors, and to regulate competing uses of City property. It is also the City's intent to protect the rights of people to engage in expressive activities in public places and to establish reasonable time, place, and manner regulations for such activities. This Ordinance is further intended to create mechanisms for cost recovery that allow the City to recoup some of the costs associated with supporting events but which do not unduly impact the viability of events.

#### **8-8-2 Definitions:**

**Abutting or Adjacent property** – properties next to, neighboring, adjoining, or diagonally opposite the event location.

**Authority** – The City Mayor/Manager or City Staff designated by the Mayor.

**City Property** – means any owned, controlled, managed, and/or maintained properties including: streets, right-of-ways, sidewalks, alleys, parks, trails, structures, buildings, and lands, held by the

City for the benefit of the public, including that portion of Highway 212 located within the City Limits of Red Lodge.

**City Utilities** – means use of City water, sewer, solid waste collection or disposal, electricity, and gas.

**Cost Recovery fees**- The reimbursement for the cost of utilities and/or services deemed necessary by the City Authority to sufficiently support the event, maintain public health and safety, and reduce the risk of liability to the City.

**Exclusive Use** – something that is used by one person or group and not shared with anyone else.

**Expressive activity** - conduct that is protected by the United States or Montana Constitutions, this includes activity in which the sole or principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of opinions, views or ideas, and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. Expressive activity does not include commercial events, sports events, fundraising events, or events the principal purpose of which is entertainment.

**Parade** – a public procession, especially one celebrating a special day, or event, and may including marching bands and floats.

**Picketing** – a person or group of workers who protest outside a building to prevent other workers from going inside especially because they have a disagreement with their employers.

**Protest** – a statement or action expressing disapproval of or objection of something.

**Public Event** – means an event which is open to and may be attended by the general public, free of charge.

**Rally** –meeting of people making a political protest or showing support for a cause.

#### **8-8-3: Permit Required.**

An event permit must be obtained and approved by the Authority, or designee, for the following events or if any one or more of the following circumstances apply:

- A. Any event that is requesting exclusive use of City property.
- B. Any event that involves assembling or traveling in unison on any City Property.
- C. Any event involving seventy-five (75) people or more using City Property regardless of whether or not they are requesting exclusive use.
- D. Any event on City Property that involves the sale, giveaway, or distribution of alcoholic beverages, physical alteration to property, sale of goods and/or services, and/or solicitation as set forth in subsection 8-8-5(B) of this ordinance.

E. Any event that requires temporary waiver of the City's ordinance prohibiting consumption of alcoholic beverages, or possession of open containers of alcoholic beverages, on public property.

F. The use of any sidewalks along Broadway Avenue other than by the adjacent property owner for the purpose of marketing their adjacent commercial business.

#### **8-8-4: Exemptions**

The following activities are exempt from the permit requirement:

- A. Funeral processions.
- B. Lawful picketing on sidewalks when the number of participants does not substantially impede, obstruct, impair, or interfere with the free use of the sidewalk or the conduct of business.
- C. Activities conducted by a governmental agency acting within its scope of authority.
- D. Features within City Parks (gazebo, picnic tables, horseshoe pits, basketball courts, grills, playgrounds, tennis courts, etc.) are first-come, first serve. Exclusive use requires submission of an application for permit.
- E. Organized Activities by user groups using recreational facilities under their Memorandum of Understanding (MOU) with the City. Groups that want exclusive use of a recreational facility holding a MOU with the City need to coordinate directly with the user group.
- F. Spontaneous events involving solely expressive activity which are occasioned by news or affairs coming into public knowledge less than forty-eight (48) hours prior to such event may be conducted on City Property without a permit, subject to the restrictions set forth below:
  - 1. The event shall be conducted on property that is not occupied by another event.
  - 2. If practicable, the spokesperson or leader(s) of the event should give notice at least six (6) hours prior to the event to the City Authority of the date and time of the event and provide an estimate of the approximate number of persons who will be participating so that the City may assess the need for additional public services.
  - 3. The spokesperson or leader(s) of the event shall submit a statement to the City Authority setting forth the purpose of the event prior to the event, if practicable, but no later than twenty-four (24) hours after the event's conclusion.
  - 4. The consumption of alcoholic beverages, physical alteration to property, sales of goods and/or services, and/or solicitation are prohibited at spontaneous events.

#### **8-8-5: Application**

A. To receive a permit, the applicant must submit an application to the City Authority on a form approved by the City. The applicant must provide the following information:

- 1. The name, address, telephone number, and e-mail address of the event organizer,
- 2. A description of the purpose of the proposed event,
- 3. A statement of any fees to be charged to participants or spectators in connection with the event,
- 4. The proposed location of the event including a plan and map depicting the placement of temporary structures or facilities on public property or public right-of-ways and, if the event is a parade or processional, a map of the proposed route,

5. Date(s) and hours of proposed use including set-up and break down times,
6. Estimated number of participants,
7. Anticipated impacts on parking and traffic patterns for vehicles and pedestrians including compliance with the American Disabilities Act (ADA),
8. Anticipated sources of noise include but are not limited to (music, public address system, or amplified sound) including proposed mitigation measures,
9. Provisions for trash removal and clean up,
10. Whether or not restrooms are required and provided,
11. Any anticipated impact on police, fire, or ambulance services,
12. A certification that the event organizer shall be financially responsible for the cost of each departmental services, if applicable,
13. Proof of liability insurance,
14. Use of campfires or open flames,
15. Use of City utilities and/or services,
16. Sales of goods or services,
17. If requested, why exclusive use is necessary,
18. Use of Montana Department of Transportation (MDT) Highways or right-of-ways are subject to their review and correspondence. Approval or acceptance of the request from MDT must be included with the application,
19. Use of the airport grounds are subject to the Airport Board review and approval. Approval of the request must be submitted with the application. When a Notice to Airmen or Notice to Air Missions (NOTAM) is required, it will be provided to the City Authority at least 24 hours in advance of the event,
20. Evidence of Notification of Abutting and Adjacent Properties: The applicant shall provide, with the application, evidence of notification of each property owner or its authorized representative abutting and adjacent the proposed permit site for their comment prior to the date of approval. All comments shall be included and submitted with the application,
21. Signed checklists and comments from each City Department and County Service, including but not limited to: The applicant shall obtain a written response regarding the proposed use from the City Police Department, City Public Works Department, City Planning Department, and Carbon County Fire, Rescue and Emergency Medical Services (EMS),
22. Any necessary permits or licenses required by State, County or City,
23. Whether the applicant is requesting any special signage (to be provided by applicant),
24. Any other information reasonably required by the City Authority.
25. All Event Applications will be noticed by the City and made available for public view and comment prior to City's final response.

Any incomplete application will be denied. The Applicant may resubmit the application with any updated information.

B. Alcoholic Beverages on City Property: If alcohol will be sold, distributed, or given away for any event on City Property, the applicant will need to additionally specify control measures, server certification, obtain a properly issued permit or license authorizing the sale or service of alcohol pursuant to Montana law, and obtain a waiver of the City Open Container Ordinance. Additional fees and damage deposit may be required. All State liquor control regulations shall be complied with by the applicant and all applicable State permits shall be obtained and a copy provided to the City with the application. In reviewing the application for a permit to serve alcoholic beverages on City Property, the City Authority shall consider the following factors:



1. The appropriateness of the property for the proposed use;
2. Any potential negative impact on abutting properties, right-of-ways, or pedestrians;
3. The estimated number of people likely to be at the event, as well as the estimated amount of alcohol available.

D. Public Health, Safety, and Welfare: The City shall have the right to impose any condition pertaining to the public health, safety, and welfare upon its approval of the permit, and shall retain the right through its Authority to immediately revoke said permit to use City Property for any violation of the permit approval conditions. The City shall require any applicant to pay cost recovery fees to the City including, but not limited to: trash removal, recycling, street cleaning, law enforcement, and temporary restrooms according to the assessment of the City Authority. Failure to obtain permit approval in advance shall result in the City's right to cause immediate cessation of the activity and the possible issuance of a trespass citation.

E. Fees

1. At the time of application submission, the applicant shall pay all applicable fees as set forth in the use of City Property implementing resolution.
2. Deposit Refund: The applicant's security deposit shall be refunded upon verification by the City that, at the sole discretion of the City, the area is trash free and has been restored to its same or better condition prior to the use by 8:00 a.m. immediately following the last day of use or as otherwise agreed upon by permit approval. Upon such verification, the applicant's deposit will be refunded on the first City business day following verification.
3. Use of City Property for camping during events shall be subject to fees as established by resolution of City Council, which shall take into account the fair market value for said use.

F. The City Authority shall refer the application to City departments or personnel as he or she deems necessary for review, evaluation, investigation, and recommendations regarding approval or disapproval of the application. All City departments shall respond in writing with any concerns, issues, suggestions, or approval.

G. Deadline for filing application: The deadline for filing a completed application shall be a minimum of 45 days in advance of the event, but not more than 270 calendar days (approximately 9 months) in advance. Application for reservation of a park feature less than 45-days in advance shall be permitted based on its availability and at the discretion of the Authority.

In the event the applicant can show good cause to request a waiver from the 45-day submittal requirement, the Authority may waive and reduce said 45-day requirement. One example of good cause would be if the applicant has provided, with the application, all required information including the adjacent and abutting notifications and satisfactorily addressed any comments. Additionally, the applicant would have also submitted evidence of satisfactorily addressing any concerns from staff (community development, public works, police department) and any other applicable outside referral agencies including but not necessarily limited to the Red Lodge Fire Department, Airport Board, Montana Department of Environmental Quality, Montana Department of Transportation, and Carbon County Sanitarium.

H. The City Authority shall announce receipt of an application at the subsequent Council meeting during Mayor's comments.

#### **8-8-6: Review Process**

A. The City Authority shall respond to the event applicant within thirty (30) days of the application submission. The City Authority shall issue an event permit if he or she determines the following criteria have been met. Provided, however, such criteria shall not be applied in a manner that will unreasonably restrict expressive activity or other activity protected by the Montana or the United States Constitutions.

1. The preparation for, the conduct at, and the conclusion of the proposed event will not unreasonably burden City resources necessary to preserve the public's use of the street(s) in the area contiguous to the street(s) or other City Property being used for the event.
2. The preparation for, the conduct of, and the conclusion of the proposed event will not unduly impede, obstruct, or interfere with the operation of emergency vehicles or equipment in or through the permit area or adversely affect the City's ability to perform Municipal functions or furnish services in the vicinity of the permit area.
3. The proposed event does not otherwise present a substantial or unwarranted health, safety, noise, or traffic hazard.
4. The proposed event will be of a nature and size appropriate to the proposed venue or site and will occur during approved hours for that venue or site.
5. The proposed event will not cause other adverse impacts on health or safety to surrounding residential or commercial uses, which cannot be effectively mitigated.
6. The applicant has obtained all permits required elsewhere in this Code or by other applicable laws, rules, or regulations (such as MDT or Airport Board).

B. The City Authority may place reasonable conditions on any permit concerning the time, place, or manner of holding the event as is necessary to coordinate multiple uses of City Property, assure preservation of City Property, prevent dangerous, unlawful, or impermissible uses, and protect the safety of persons and property. Provided, however, such conditions shall not be imposed in a manner that will unreasonably restrict expressive activity or other activity protected by the Montana or the United States Constitutions. Conditions the City Authority may impose include, but are not limited to:

1. Establishment of an assembly or disbanding area for a parade or like event.
2. Accommodation of an event's pedestrian and vehicular traffic, including restricting events to City sidewalks, portions of a City street, or other public right-of-way, and implementation of a parking or transportation plan.
3. Conditions designed to avoid or lessen interference with public safety functions and/or emergency service access.
4. Number and type of vehicles, animals, or structures to be displayed or used in the event and their locations.
5. Provision and use of traffic cones or barricades.
6. Provision or operation of sanitary facilities, including handicap accessible sanitary facilities.
7. Provision of a waste management plan, and the cleanup and restoration of the site of the event.
8. Use of sound amplification equipment, and restrictions on the amount of noise generated by motors and other equipment used in the course of the event.
9. Manner of providing notice of permit conditions to permit participants and those businesses or residents who may be directly affected by the conduct of the event.

10. Reasonable designation of alternate sites, times, dates, or modes for exercising expressive activity.
11. Obtaining any and all business licenses or other necessary permits required by this Code for the sale of food, beverage or other goods or services at the event.
12. Manner by which alcohol sales and service, if any, shall be conducted at the event.
13. Limitations on the use of spray paint or chalk paint as directional cues for participants.
14. Provisions for public safety and the preservation of public property such as traffic/pedestrian control, fire safety, the closure of streets or intersections, the diverting of traffic, etc.

The Authority shall provide the applicant a written explanation for any decision that imposes conditions on the permit.

C. The Authority shall deny an application for a permit or revoke a permit if the Authority finds any of the following:

1. The applicant has knowingly made a false, misleading, or fraudulent statement of fact to the City in the application process.
2. The application does not contain the information required by this Ordinance.
3. The application does not satisfy the requirements of this Ordinance.
4. The applicant has damaged City property and has not paid in full for such damage or has other outstanding and unpaid debts related to a prior permit issued by the City.
5. The applicant has failed to meet conditions and operate within the parameters of a previous permit granted by the City (including payment of fees).

The City Authority shall provide the applicant a written explanation for any denial of a permit. If the application is denied, the applicant may appeal to City Council.

D. In deciding whether to approve an application for a permit, no consideration will be given to the message of the event or activity, the content of speech, the identity or associational relationships of the applicant, or to any assumptions or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the event or activity.

#### **8-8-7: Cost Recovery for Events**

A. The Authority shall charge the applicant for the permit an administrative processing fee as established by the City Council by resolution, as well as the cost of any City Utilities or services used.

B. If the event involves solely expressive activity, the Authority shall waive the administrative processing fee for an indigent person that cannot pay for such fees. An indigent person may include, but is not limited to, a person who is eligible to receive, or is receiving, public assistance. An organization in which a majority of the members are indigent may also be eligible for waiver. The person or organization is required to apply for indigent status at the time of permit application. The person or organization is required to provide such information and documentation as may be reasonably necessary for the Authority to verify such status. The Authority may deny an application for indigent status if the applicant fails to timely provide the information and documentation requested.

C. The Authority shall charge the applicant a fee if the request involves the exclusive use of City Property, if it involves the sales of goods or services, solicitation, or if it involves physically altering the property.

#### **8-8-8: Insurance**

A. The applicant for a permit must possess or obtain comprehensive general liability insurance with single limit coverage of at least one million dollars (\$1,000,000.00), or as set by resolution of City Council, to protect the City from liability for damage on account of bodily injury and/or property damage arising from the event. Additional insurance may be required due to the type of event.

1. The insurance policy must name the City, its officers, employees, and agents as an additional insured.
2. The insurance coverage must be maintained for the duration of the event.
3. The applicant's permit shall be immediately and automatically revoked if such insurance coverage is invalid, not current, or not in effect while using City Property.
4. The certificate of insurance must be submitted to the City with the application.

B. The Authority shall waive the insurance requirement if the event involves solely expressive activity and:

1. The applicant is an indigent person that cannot pay for the required insurance. An indigent person may include, but is not limited to, a person who is eligible to receive, or is receiving, public assistance. An organization in which a majority of the members are indigent may also be eligible for waiver. The person or organization is required to apply for indigent status at the time of permit application. The person or organization is required to provide such information and documentation as may be reasonably necessary for the Authority to verify such status. The Authority may deny an application for indigent status if the applicant fails to timely provide the information and documentation requested; or
2. It is objectively impossible to obtain insurance coverage as demonstrated by the applicant's submission of two (2) statements from independent licensed insurance brokers stating that the insurance is unavailable.

#### **8-8-9: Indemnity**

Each applicant shall execute a hold harmless agreement in a form approved by the City agreeing to defend, indemnify, and hold harmless the City against losses and liabilities incurred from the conduct of the applicant or its officers, employees, agents, participants, and the public. The agreement must be submitted to the Authority with the application for a permit.

#### **8-8-10: Time Requirements**

A. An application for a permit for an event involving solely expressive activity must be complete and submitted to the Authority at least three (3) days before the proposed event is to be held unless the event qualifies for a spontaneous event exemption under subsection 8-8-4(E) of this Ordinance.

B. An application for a permit for all other events must be completed and submitted to the City Manager at least forty-five (45) days before the proposed event is to be held.

**8-8-11: Appeal**

Any applicant aggrieved by a decision of the Authority with respect to a permit may appeal such decision to the City Council by filing a written notice of such appeal with the City Clerk within five (5) business days of the decision. The City Council shall decide the appeal at its next regularly scheduled meeting or may call a special meeting to decide the appeal. The City Council's decision shall be final upon majority of the voting council except for judicial review.

**8-8-12: Penalty**

Any person(s) who violate any of the provisions of this Ordinance shall be guilty of a misdemeanor and shall be punished up to \$500 fine and up to 6 months in jail, or both. Each day of violation is a separate offense.

**Effective Date of Ordinance**

This Ordinance shall be effective 30-days after approval of second reading by the City Council of the City of Red Lodge, Montana.

**BE IT ORDAINED BY MEMBERS OF THE CITY OF RED LODGE:**

**PASSED AND APPROVED** on the first reading by a majority of the members present of the City Council of the City of Red Lodge on the 22nd day of November, 2022.

**PASSED AND APPROVED** on the second reading by a majority of the members present of the City Council of the City of Red Lodge on the 13th day of December, 2022.

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Mayor

ATTEST:

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City Clerk